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11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN JOSE DIVISION

E-FILED - 1/10/07

1 UNITED STATES OF AMERICA,) No. CR 06-00195 RMW
2)
3) STIPULATION AND [] ORDER
4)
5) VACATING TRIAL DATE AND SETTING
6) NEW TRIAL DATE AND EXCLUDING
7) TIME FROM THE SPEEDY TRIAL ACT
8) CALCULATION (18 U.S.C. §§ 3161(h)(8)(A)
9) & 3161(h)(8)(B)(iv))
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8 The undersigned parties respectfully request that the motions hearing and trial current
9 scheduled in the above-captioned case be vacated. Specifically, a motions hearing is currently
10 scheduled for January 22, 2007, along with a pretrial conference on February 15, 2007 and a
11 week long trial commencing on February 26, 2007. Assistant United States Attorney Susan
12 Knight was recently notified by the defendant's attorney's Anne Marie Tomassini and Robert
13 Amparan, that, for several reasons, they are requesting that the trial date be vacated. As stated in
14 Ms. Tomassini's declaration, the government recently obtained the evidence in this case from the
15 Drug Enforcement Administration in Philadelphia for her review. The evidence was reviewed by
16 Ms. Tomassini on December 1, 2006, and there are several other pieces of physical evidence that
17 the government needs to make available for her review. The government anticipates making
18 such evidence available before the end of the year. In addition, Ms. Tomassini further stated in
19 her declaration that a continuance is needed because of respective counsels' holiday schedules
20 and other trials. For example, Mr. Amparan has a trial set for mid-March. The government does
21 not object to the continuance. Therefore, the parties respectfully request that the following
22 motions and trial schedule be set:

- 23 1. Defense counsel to file their motions by February 26, 2007, and the government will
24 respond by March 30, 2007. Defense counsel will file an optional rely brief by April 6,
25 2007.
- 26 2. A motions hearing be scheduled for April 16, 2007 at 9:00 a.m.
- 27 3. A pretrial conference on April 23, 2007 at 9:00 a.m.
- 28 4. The trial will commence on May 14, 2007. The parties anticipate that the trial will

1 last one week.

2 The parties also request that an exclusion of time under the Speedy Trial Act from December 11,
3 2006 until February 26, 2007. The parties agree and stipulate that an exclusion is appropriate
4 based upon effective preparation of defense counsel and for continuity of defense counsel. In
5 addition, the government needs to provide additional discovery for defense counsel's review.

6 SO STIPULATED.

7 KEVIN V. RYAN
United States Attorney

8 DATED: _____

9 /s/
10 SUSAN KNIGHT
Assistant United States Attorney

11 DATED: _____

12 /s/
13 ANNE MARIE TOMASSINI
Counsel for Mr. Pierre Dinh

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16 Accordingly, the Court HEREBY ORDERS that the motions hearing scheduled for
17 January 22, 2007 at 9:00 a.m. be vacated. In addition, the Court vacates the pretrial conference
18 scheduled for February 15, 2007 at 9:00 a.m. and trial commencing on February 26, 2007. The
19 Court ORDERS the above-referenced briefing schedule and that a motion hearings be scheduled
20 for April 16, 2007. The Court ORDERS that the pretrial conference be scheduled for April 23,
21 2007 and that the trial commence on May 14, 2007.

22 The Court FURTHER ORDERS that the time between December 11, 2006 and February
23 26, 2007 is excluded under the Speedy Trial Act. The Court finds that the failure to grant the
24 requested continuance would deny the defendant effective preparation of defense counsel and
25 continuity of defense counsel. The Court finds that the ends of justice served by granting the
26 requested continuance outweigh the best interest of the public and the defendant in a speedy trial
27 and in the prompt disposition of criminal cases. The Court therefore concludes that this
28 exclusion of time should be made under 18 U.S.C. §§ 3161(h)(8)(A) and 3161(h)(8)(B)(iv).

1 IT IS SO ORDERED.
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/s/ Ronald M. Whyte
RONALD M. WHYTE
United States District Judge